

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Mark J. Kelly,	)	
	)	
Plaintiff,	)	Case No. 1:00-CV-661
	)	
vs.	)	
	)	
Lambda Research, Inc.,	)	
	)	
Defendant.	)	

O r d e r

On December 4, 2001, this Court issued an order granting Defendant's motion for summary judgment in this matter and entered judgment in Defendant's favor. The United States Court of Appeals for the Sixth Circuit affirmed this Court's judgment on March 3, 2004. On May 10, 2004, Plaintiff filed a motion for remedies, reversal, and remand due to alleged misconduct by Defendant. He brings the motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

Plaintiff has not specified which provision of Rule 60(b) is the basis for his motion. His arguments in favor of relief make clear that the basis is Rule 60(b)(3), which allows for relief in the event of misconduct on the part of an adverse party.

Rule 60(b) provides that a motion pursuant to Rule 60(b)(3) must be made "not more than one year after the judgment, order, or proceeding was entered or taken." Plaintiff's motion was not made within one year of the December 4, 2001, entry of judgment in this matter. He has not identified a basis for

deviation from the clear language of the rule and has not replied to Defendant's argument that his motion is untimely. For those reasons, the Court concludes that Plaintiff's motion is untimely, and the motion (Doc. 44) is hereby **DENIED**.

**IT IS SO ORDERED.**

\_\_\_\_\_/s/  
Sandra S. Beckwith  
United States District Judge